

tpl:MMP

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

<sup>6312</sup>  
CASE NO. 00-6197-CR-ROETTGER  
MAGISTRATE JUDGE SNOW

NIGHT BOX  
FILED

JAN 11 2002  
CLARENCE L. ADIX  
CLERK, USDC/SDFL/FTL

UNITED STATES OF AMERICA, )  
 )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
JERMAINE WILLIAMS, )  
 )  
Defendant. )  
\_\_\_\_\_ /

**GOVERNMENT'S RESPONSE IN OPPOSITION TO  
DEFENDANT'S MOTION TO SUPPRESS ALLEGED DIAGRAM OF CRIME SCENE  
FOUND IN DEFENDANT'S VEHICLE DUE TO INVALID CONSENT TO SEARCH**

COMES NOW the United States of America, by and through the undersigned Assistant United States Attorney and files this Response In Opposition To Defendant's Motion and in support thereof states as follows:

**BACKGROUND**

1. On October 20, 2000, at approximately 6:40 am, two Brinks armored car drivers, EISHAM RUIZ and FRANK GRANJA arrived at the Citibank Automatic teller machine (ATM) in the parking lot located at 2789 University Drive in Coral Springs, Fl. As the guards were entering the ATM to supply the machine with money

belonging to Citibank, Inc. they were ambushed by two males. The men drove up in a red Honda and armed with a 12 guage shotgun and a 9mm semiautomatic pistol shot without warning from the car. The shotgun blasts severely injured the guards in the back and neck area and knocked them to the ground. RUIZ , one of the guards, although seriously injured, was able to return fire. RUIZ fired his service revolver 6 times in the direction of the red Honda. After being shot at by the guard, the robbers panicked and sped away without obtaining any money.

2. Both of the guards saw the robbers flee the scene of the assault in a red automobile. The guards did not know the number of robbers involved.

3. One witness, who lives in the immediate area, reported that as he was preparing to go to work, he heard what he believed were three gunshots coming from the vicinity of the Citibank. This same witness then observed a red Honda Civic with dark tinted windows fleeing from the bank and traveling east on NW 28<sup>th</sup> Street. Another Citizen saw the guards lying on the bank parking lot pavement. There are recorded 911 Calls from these witnesses.

4. At Approximately 7:00 am, a Coral Springs Police Officer located a Red 1983 Honda Civic, two blocks west from the shooting scene. Investigation determined that it was the vehicle used during the commission of the robbery, The car was left with the motor running and the doors ajar. Investigation determined that the car

had been stolen in Coral Springs, Fl on October 12, 2000. The vehicle had numerous blood stains and blood splatters throughout the vehicle. Located on the dashboard was what appeared to be a "dred" lock piece of black human hair braid with blood and skin attached laying on the dash board of the vehicle near the vin number. Also recovered from the vehicle were a Mossberg 12 gauge shot gun loaded with three live shells; three spent shells were found in the back seat and a 9mm semiautomatic pistol loaded with eight rounds with one round in the chamber. A spent 9mm shell were found on the ground at the scene of the shooting.

5. At approximately 7:55 am Westside Hospital Plantation, FL contacted the police and advised that they had a black male patient for treatment of a gunshot wound to the head. Witnesses advised that the man had been dropped off by a white female driving a black Honda. The police arrived at the hospital and interviewed the patient, JERMAINE WILLIAMS, who advised that he had been driving on the SawGrass expressway that morning when he pulled over to the side of the road to urinate. WILLIAMS further advised that shortly after exiting his car he felt a hot burning sensation on his head area and realized that he must have been shot. William advised the hospital personnel that he drove to the hospital for treatment.

6. Coral Springs P.D. officers upon learning that WILLIAMS had been involved in a shooting recalled that WILLIAMS and an

associate, Williams and ESPINUEVA, had been arrested by the Coral Springs Police Department on August 28, 2000 for aggravated Battery with a firearm when WILLIAMS pointed a pistol at an individual. A search of WILLIAMS' vehicle incident to arrest that day produced two bullet proof vests, two pairs of handcuffs and two canisters of mace.

7. A check of the Coral Springs Police Department field inquiry records showed that on Friday, October 6, 2000 at 6:30 a.m. exactly two week before the armored car robbery, Williams was stopped by a Coral Spring Police Patrol Officer in the 2700 block of NW 92<sup>nd</sup> Avenue. Williams, was dressed in all black clothing, and advised the officer that he was walking from his girlfriend's Nikki Jones' house located at 9500 block of 29<sup>th</sup> Street, to his friend Lowen's house at the Royal Palm Towers. The address where Williams was stopped by the police is located directly behind the Citibank, 2789 University Drive, Coral springs, Florida. Investigation determined that ESPINUEVA does not live at the Royal Palm Towers. He lives at 11401 NW 43<sup>rd</sup> Street.

8. Coral Springs Police Report # 00-12479, revealed that the pistol, which is described as a German made 9mm Makarov, serial number F8539 was reported stolen on October 2, 2000, from a vehicle parked at 11315 NW 44<sup>th</sup> Street, a few blocks away from ESPINUEVA's residence. this pistol was stolen during a vehicle

burglary. The Shotgun was reported stolen in a home invasion along with \$6,000 in cash on July 2, 2000 in Margate, FL. Investigation disclosed that the victim in the home invasion robbery was a Nevin Graff, an acquaintance of ESPINUEVA.

9. ESPINUEVA and WILLIAMS hid the vehicle in the Royal Palm Towers apartment complex. This is the same complex where WILLIAMS claimed ESPINUEVA resided when WILLIAMS was stopped and interviewed by the CSPD on October 6, 2001. ESPINUEVA'S fingerprints were recovered from the shotgun used to shoot the guards. While inventorying the clothing, a Coral Springs Crime Scene Technician discovered a handcuff key in one of pockets of WILLIAMS' pants.

10. Additionally, the bloody dread lock found on the dashboard in the red Honda matched the color, texture, length and style of the dread locks worn by WILLIAMS.

11. WILLIAMS' Silver Integra was towed to the FBI, Miami Field Division and secured. The FBI Evidence Response Team conducted a search of WILLIAMS' silver Integra. Investigating personnel discovered an envelope in a driver's door compartment containing a rough sketch of the Citibank banking facility and a Brink's truck. The words "Brinks", "ATM", "Drive thru teller" and "walk up ATM" all appear on this document. Moreover, the times 7:25 a.m., 7:28 a.m., and 7:30 a.m. are also handwritten on this document. WILLIAMS' fingerprints were found on this diagram. In

addition to collecting this item of evidence, ERT also collected numerous swabs of suspected blood evidence and a bottle of Simple Green cleaning solution, which ESPINUEVA had earlier admitted to using to clean the blood stains from the Honda Integra.

12. Nuclear DNA analysis of the blood recovered from the door handle, headliner and other areas of the stolen red Honda used as a getaway car as well as blood recovered from William's Honda was compared with a known blood sample obtained from WILLIAMS. Nuclear DNA comparison indicates that all the blood recovered was that of WILLIAMS.

13. Charles A. Peters, an FBI firearm experts will testify that compositional steel shot analysis conducted on the shot gun pellets recovered from the bodies of RUIZ and GRANJA and the ATM area compared with the live shotgun shells found in the shot gun recovered in the red Honda indicate that they are consistent with coming from the same source.

14. Shot pattern analysis conducted by FBI examiner Douglas P. Murphy indicated that the firing distance of the shotgun was greater than 5 feet but less than 15 feet.

**MOTION TO SUPPRESS**

The defendant now moves this court to suppress a crime scene diagram found in the defendant's car pursuant to a consent search.

**MEMORANDUM OF LAW**

The defendant seeks to suppress the valid consent to search his vehicle because of an alleged Miranda violation. The defendant details the same alleged Miranda violation in this motion to suppress a document that he uses in an attempt to suppress Statements. The government does not concede any Miranda violation has occurred that would vitiate the consent, but assuming arguendo that there was one, it would be of no moment in the Miranda analysis as it pertains to a consent to search.

The record is clear that the defendant signed a consent to search form while he was being interviewed at the Coral Springs Police Department on October 20, 2000. See consent to search form attached as government's exhibit 1.

In his motion, the defendant admits that there is no Eleventh Circuit authority that any alleged violation of Miranda will taint a defendant's subsequent to search and cites an obscure fed supp case. See defendant's motion at pg 5. It is well settled that the Miranda rights are designed to ensure that individuals being subjected to custodial interrogation are accorded their constitutional privilege against compulsory self incrimination. See United States v. Hidalgo, 7 F.3d 1566 (1993). The government seeks to introduce the crime scene diagram found pursuant to a

consent to search. There is nothing testimonial or communicative here that Miranda seeks to protect. This court will have to make credibility choices based on the totality of the circumstances.

Wherefore, based on the above, it is respectfully submitted that this Honorable court deny the Defendant's motion to suppress evidence.

Respectfully submitted,

GUY A. LEWIS  
UNITED STATES ATTORNEY

By:




THOMAS P. LANIGAN  
Assistant United States Attorney  
Florida Bar #A550003  
U.S. Courthouse/Federal Building  
500 E. Broward Boulevard  
Fort Lauderdale, Florida 33301  
(954) 356-7255 ext. 3590

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to the below named on this 14<sup>th</sup> day of January, 2002.

Darryl Wilcox, AFD  
1 East Broward blvd.  
Fort Lauderdale, FL  
33301

  
THOMAS P. LANIGAN  
ASSISTANT UNITED STATES ATTORNEY



**CORAL SPRINGS POLICE DEPARTMENT**2801 Coral Springs Drive  
Coral Springs, Florida 33065**AUTHORIZATION STATEMENT  
VEHICLE****GOVERNMENT  
EXHIBIT**CASE  
NO. 00-6312-Cr-NCREXHIBIT  
NO. 1CASE #: 00-13181DATE/TIME: 10-20-00 4:30pm

LOCATION: \_\_\_\_\_

I, Jermaine Williams address 3961 NW 35 TER LAUDERDALE  
 phone number: \_\_\_\_\_, do hereby authorize the Coral Springs Police Department  
 and the duly appointed police officers of that agency to make a thorough search of the below described  
 vehicle. By my signature below, written by my own hand, I hereby authorize these officers and give my  
 permission to confiscate any contraband and any object they suspect of being contraband found within  
 said vehicle. I do hereby release the above agency and it's duly appointed police officers from any and  
 all liabilities and/or claims made by me or my heirs relating to the aforementioned search and seizure.  
 This authorization I give voluntarily to the Coral Springs Police Department with no promise of  
 compromise or favor by said agency.

## Description of said vehicle:

Color: Gray Year: 1992  
 Make: Acura Model: Integra Body Style: 2D  
 Registration # 15017501 Year: OCT. 2000 State: FL  
 Owner: Jermaine Williams VIN #: JH4DA9346L5017267

Signed: [Signature]Date: 10-20-004:30pmWitness: [Signature]Witness: B Scott Umphlet